

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

In re Terrorist Attacks on September 11, 2001	03 MDL 1570 (GBD)(SN) ECF Case
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This document relates to:

Estate of John P. O'Neill, Sr., et al. v. Al Baraka Investment & Development Corp. et al., 04-cv-1923 (GBD) (SN)

**PLAINTIFFS' NOTICE OF MOTION FOR
CLASS CERTIFICATION AND RELATED RELIEF**

PLEASE TAKE NOTICE that upon the accompanying Memorandum of Law and Affidavits of Jerry S. Goldman, Esq., (“Goldman Aff.”), Carol A. O’Neill (C.A. O’Neill Aff.”), John P. O’Neill, Jr. (“J.P. Aff.”), and Christine I. O’Neill (“C.I. O’Neill”), along with the exhibit appended, plaintiffs in the above-referenced matter by and through their counsel, Jerry S. Goldman, Esq., Bruce E. Strong, Esq., Samantha E. Smith, Esq., and Stephen Wah, Esq., of Anderson Kill P.C., respectfully move this Court for an Order:

1. Granting Plaintiffs’ Motion For Class Certification and Related Relief;
2. Certifying the above-referenced action as a class action under Rule 23(b)(3) of the Federal Rules of Civil Procedure;
3. Redefining the Class identified in the Complaint filed on March 10, 2004, and amended by the First Consolidated Complaint dated September 30, 2005 (“FCC”), as follows:

(1) all spouses, children, parents, or siblings of any individual who died on or within seventy-two (72) hours of September 11, 2001, at the World Trade Center in New York, NY, the Pentagon Building in Arlington County, Virginia, or in the airliner crash in Shanksville, Pennsylvania, as the result of terrorist attacks on September 11, 2001; and (2) all legal representatives (including executors, estate administrators and trustees) entitled to bring legal action on behalf of any individual who died on or within seventy-two (72) hours of September 11, 2001, at the World Trade Center in New York, NY, the Pentagon Building in Arlington County, Virginia, or in the airliner crash in Shanksville, Pennsylvania, as

the result of terrorist attacks on September 11, 2001; but excluding (a) all individuals, and all spouses, children, parents, siblings, and legal representative of individuals identified by the Attorney General of the United States or otherwise shown to have perpetrated, aided and abetted, conspired in regard to, or otherwise supported the terrorist attacks of September 11, 2001; and further excluding (b) any person or estate identified in (1) or (2) who as of January 15, 2020 has a case pending in the Multidistrict Litigation entitled In re Terrorist Attacks on September 11, 2001 (S.D.N.Y.), Index No. 03-md-1570, against defendants named in Estate of John P. O'Neill, Sr., et al. v. Al Baraka Investment & Development Corp. et al. (S.D.N.Y.), Index No. 04-cv-1923 (GBD)(SN), but including the Estate of John P. O'Neill, Sr., the Estate of John F. O'Neill, the Estate of Dorothy A O'Neill, John P. O'Neill, Jr., Carol A. O'Neill, and Christine I. O'Neill;

4. Granting Plaintiffs leave to amend the First Consolidated Complaint to:
 - a. Amend the Class Definition set forth in paragraphs 14 and 128 of the First Consolidated Complaint to conform with the class as defined above;
 - b. Add the Estate of John F. O'Neill, the late father of John P. O'Neill, Sr., as a party and Class Representative; and,
 - c. Substitute in Christine I. O'Neill as personal representative to the Estate of Dorothy A. O'Neill for Dorothy A. O'Neill as a party and Class Representative;
5. Certifying the Class with regard to liability and damages, or in the alternative, pursuant to Rule 23(c)(4) of the Federal Rules of Civil Procedure, certifying the Class for purposes of determining liability and deferring determination of class certification as to damages;
6. Appointing Jerry S. Goldman of Anderson Kill P.C., as Class Counsel;
7. Appointing Christine I. O'Neill, John P. O'Neill Jr. and Carol A. O'Neill as Class Representatives in their individual capacity;
8. Appointing Christine I. O'Neill as Class Representative in her capacity as personal representative of the Estate of John F. O'Neill and the Estate of Dorothy A. O'Neill;

9. Appointing John P. O'Neill, Jr. as Class Representative in his capacity as personal representative to the Estate of John P. O'Neill, Sr.;

10. Subject to defendants being afforded discovery in the same scope and manner as previously conducted, and the opportunity to be heard, granting Plaintiffs

- a. Leave to substitute any nominated Class Representative that is deemed inadequate with alternate Class Representatives;
- b. Leave to proffer additional or alternative Class Representatives should it be deemed necessary;

11. Should the Court deny class certification, granting Plaintiffs leave to amend the First Consolidated Complaint to add additional plaintiffs to the pleading; and,

12. Granting any other relief the Court deems just and proper.

Plaintiffs' request is made in connection with the Court's Order dated November 4, 2019 (ECF No. 5266).

Respectfully submitted,

/s/ Jerry S. Goldman

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Dated: New York, New York
January 15, 2020